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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,203	06/08/2000	Louis Paul Herzberg	13668(YOR9-2000-0348US1)	9980
7590 Richard L Catania Esq Scully Scott Murphy and Presser 400 Garden City Plaza Garden City, NY 11530			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 12/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/590,203

**Applicant(s)**

HERZBERG ET AL.

**Examiner**

Annan Q. Shang

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7 and 9-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7 and 9-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/26/07 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1, 2, 4-7 and 9-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ballhorn (6,598,230)** in view of **Maissel et al (6,637,029)** and further in view of **Walker et al (6,131,086)**

As to claim 1, note the **Ballhorn** reference figures 1-3, discloses multimedia box network and further discloses a method of providing multilevel information about video-on-demand (VOD) services, comprising the steps of:

Providing a video-on-demand service system, the system including a multitude of servers (Video and Music 10, 40, etc., see figs.1-3) for storing video data, a multitude of customers (Multimedia Boxes 'MB' 20) for receiving the video data and viewing the video data on customer video monitors (col.4, lines 33-65), and a system administrator (Information Server 'IS' 12/Management PC 30) for configuring and monitoring connections between the servers and the customers, where customers are able to choose interactively various programs from a video-on-demand (VOD) service provider and can view the selected programs at any time on the customer video monitors (col.4, lines 33-65 and line 65-col.5, line 51);

Ballhorn, teaches generating a display that enables MB-20 to select music/video on demand (col.5, line 51-col.6, line 1+), but fails to explicitly teach generating a display, on a computer display screen, of a tree having a plurality of nodes, including displaying video usage patterns of the customers and embedding in the nodes information about the VOD services provided to the multitude of customers, including the step of the system administrator interacting with the nodes of the display to configure and to monitor the connections between the servers and the customer video monitors; and where commercials are provided with the video program, and the commercials are selected based on the displayed video usage patterns.

However, note the **Maissel**, discloses an intelligent EPG for a TV network, where Head end generates a display, on a computer display screen, of a tree having a plurality of nodes, monitoring all the nodes to display video usage patterns of the customers and embedding in the nodes information about the VOD services provided to the multitude

of customers; and where commercials (alert overlays) are provided with the video program, and the commercials are selected based on the displayed video usage patterns (figs.1, 8-9L, col.5, line 51-col.7, line 1+, col.8, line 39-col.9, line 1+ and col.19, line 16-col.21, line 1+)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Maissel into the system of Ballhorn to enable the Head end (system administrator or controller) to manage services and provide real time status information of audiences watching current, future, etc., TV programs and in addition provide alert overlays, commercial, etc., to enable the audiences to decide in advance what programs to watch and furthermore to enable, service providers, advertisers, etc., to make future decision as a result of the analysis to improve on their services to generate more income.

Ballhorn as modified by Maissel, fail to explicitly teach where upon receiving a customer request, the system administrator interacts with the nodes of the display to select one of the servers to provide the requested video program to the customer and assigns to the customer one or more multitude of channels to configure a video path between the selected one of the servers and the customers for transmitting the requested video program from the selected one of the servers to the video monitor of the one of the customers for viewing by the customers.

However, note the **Walker** reference figures 1 and 5-11, discloses method and system for allowing viewers to purchase program products or services, where a system

administrator or live Operator(s) 140 interacts with the nodes of the display to select one of the servers, Venders or broadcast station (CBS, NBC, TNT, FOX, ABC, etc.,) to provide the requested program, services or products to the customer and assigns to the customer one or more multitude of channels, configure a path between the selected one of the servers and the customer for transmitting the requested video program from the selected one of the servers to the video monitor of the one of the customers for viewing by the customers (col.3, line 6-col.4, line 21, lines 38-50, col.5, line 10-col.6, line 22 and col.7, line 30-col.8, line 39).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Walker into the system of Ballhorn as modified by Maissel to allow a system administrator or live operators to respond to customer request and route the requested services or product information to the appropriate server(s) or channel(s), to enable the customers to receive the requested services via the appropriate path(s) or channel(s).

As to claim 6, the claimed system is composed of the same structural elements that were discussed in the rejections of claim 1.

Claims 7, 9 and 10, are met as previously discussed with respect to claims 2, 4 and 5.

As to claim 11, the claimed storage device is composed of the same structural elements that were discussed in the rejections of claim 1.

Claims 12, 14 and 15, are met as previously discussed with respect to claims 2, 4 and 5.

Claim 13 is met as previously discussed with respect to claim 3.

As to claim 16, Ballhorn further discloses where the tree is displayed top down (col. 12, lines 41-55), note that the root of the tree is Category 92, which is at the top and the listings of programs follows.

Claim 17 is met as previously discussed with respect to claim 1.

As to claims 18-22, the claimed "method for representing interconnection of a plurality of elements of video-on-demand (VOD) system" is composed of the same structural elements that were discussed in the rejections of claim 1.

As to claim 23, Ballhorn further further employs a wizard within the software program of the STB to form a subset of elements within the Category (col.12, line 66-col. 13, line 22).

As to claim 24, the claimed article of manufacture is composed of the same structural elements that were discussed in the rejections of claim 18.

As to claim 25, the claimed architecture is composed of the same structural elements that were discussed in the rejections of claim 18.

As to claims 26 and 27, Ballhorn further further discloses where at least one VOD element is a catalog or category of VOD sub-elements and also peripherally related to VOD (col. 12, lines 31-51).

As to claim 28, Ballhorn further further discloses where the category elements only related to VOD includes an item from group including customer credit card (col. 14,

lines 15-33), note that the user can order a program and furthermore an related or available information request by the user relating to VOD program is also displayed.

As to claim 29, the claimed method is composed of the same structural elements that were discussed in the rejections of claim 1.

As to claim 30, Ballhorn further further discloses VOD related entities such as VOD composers/manufacturers (col.5, lines 10-51).

Claim 31, is met as previously discussed with respect to claim 30.

As to claims 32 and 33, Ballhorn further further discloses were the VOD resources are groups of products and inventory information (col.5, lines 10-51).

Claim 34 is met as previously discussed with respect to claim 1.

4. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ballhorn (6,598,230)** in view of **Maissel et al (6,637,029)** and **Walker et al (6,131,086)**, further in view of **Peters et al (6,374,336)**.

As to claims 35 and 36, Ballhorn as modified by Maissel and Walker further teaches an intersection matrix representing various categories, but fails to explicitly teach different servers for each category.

However, note the **Peters** reference figures 1 and 5-7, discloses a computer system and process for transferring multiple streams of data stored on multiple storage units and further discloses a catalog manager, which stores on different storage unit



different catalogs and transfers multiple streams of the catalogs accordingly (col.6, line 51-col.7, line 13, col.8, line 19-57 and col.11, line 56-col.12, line 1+).

Therefore it would have been obvious to one of ordinary skill in the art the time of the invention to incorporate the teaching of Peters into the system of Ballhorn as modified by Maissel and Walker to provide a plurality of storage for different catalogs to allow the distributor to access the storage with the shortest queue of requests and efficiently stream multiple or different catalogs simultaneously.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 2, 4-7 and 9-36 have been considered but are moot in view of the new ground(s) of rejection. The amendment to the claims necessitated the new ground(s) of rejection discussed above. **This office action is non-final.**

### ***Conclusion***

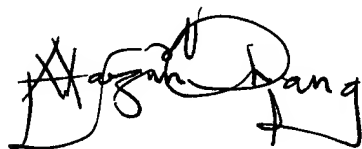
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Herz et al (6,088,722) disclose system and method for scheduling broadcast of and access to video programs and other data using customer profiles.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA)** or **571-272-1000**.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', with a stylized, cursive script.

**Annan Q. Shang**